

ORDINANCE NO. 118. .

AN ORDINANCE PROHIBITING IN THE CITY OF LODI, THE SALE, GIFT, STORAGE, MANUFACTURE, TRANSPORTATION, UNLAWFUL POSSESSION, IMPORTATION, OR EXPORTATION OF INTOXICATING LIQUORS FOR BEVERAGE PURPOSES; REGULATING ALL OTHER TRAFFIC IN SUCH LIQUORS; AND PROVIDING PENALTIES FOR VIOLATION HEREOF.

Be it ordained by ^{the} Board of Trustees of the City of Lodi, as follows:

Section 1. When used in this Ordinnnce (1) the word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter and wine, and in addition thereto, any spirituous, vinous malt, or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented, or not, and by whatever name called, containing one-half of 1 per centum or more of alcohol by volume which are fit fox use for beverage purposes: Provided, That the foregoing definition shall not extend to dealcoholized wine nor to any beverage or liquor produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of 1 per centum of alcohol by volume, and is made as prescribed in laws enacted by Congress, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from such sealed and labeled bottles, casks, or containers as %he United States Commissioner of Internal Revenue nay by regulation prescribe.

The word "person" shall mean and include natural persons, firms, associations, clubs, co-partnerships, corporationes and all associations or combinations of persons, whether acting by themselves or by a servant, agent or employee.

Section 2. It shall be unlawful for any person within the City of Lodi to manufacture, have, keep, store, sell, barter, transport, import, exaort, deliver, furnish, possass or have in his possession, any intoxicating liquor except as authorized in this Ordinance.

Liquor for non-beverage purposes and wine for sacramental purposes may be manufsctured, purchased, sold, bartered, transported, imported, exported, delivered, furnished, and possessed within the

City of Lodi, but only by a person holding a valid permit from the United States Internal Revenue Department, and only in accordance with the laws of the United States: Provided nothing in this Ordinance shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposits in Government bonded warehouses, and no special tax liability shall attach to the business of purchasing and selling such warehouse receipts.

Section 3. The following articles shall not, after having been manufactured and prepared for the market, be subject to the provisions of this Ordinance, if they correspond with the following descriptions and limitations, merely:

(a) Denatured alcohol or denatured rum produced and used as provided by the laws and regulations now or hereafter in force.

(b) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopeia, National Formulary, or the American Institute of Homeopathy that are unfit for use for beverage purposes.

(c) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

(d) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

(e) Flavoring extracts and syrups that are unfit for use as a beverage, or for intoxicating beverage purposes.

(f) Vinegar and preserved sweet cider.

Any person who manufactures any of the articles mentioned in this section within the City of Lodi, may purchase and possess liquor for that purpose, provided permits be secured from the United States Internal Revenue Department to manufacture such articles and to purchase such liquor, as provided by the laws enacted by Congress enforced under the direction of the United States Internal Revenue Department. No such manufacturer shall sell, use, or dispose of any

liquor within the City of Lodi, otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, syrup, or the articles named in paragraphs b, c, and d of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article.

Any person who shall, within the City of Lodi, knowingly sell any of the articles mentioned in paragraphs a, b, c, and d of this section for beverage purposes, or any extract or syrup for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes, or shall sell any beverage containing one-half of 1 per centum or more of alcohol by volume in which any extract, syrup, or other article is used as an ingredient, shall be subject to the penalties in this Ordinance provided.

Section 4. It shall be unlawful for any person to manufacture, sell, purchase, transport, or prescribe any liquor within the City of Lodi, without first obtaining a permit from the United States Commissioner of Internal Revenue so to do, except that any person may, without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided and except that any person who is conducting a bona fide hospital or sanatorium in the City of Lodi, engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations, and conditions as the United States Commissioner of Internal Revenue shall prescribe, purchase and use, in accordance with the methods in use in such institution; liquor to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

Nothing in this Ordinance shall be held to apply to the

manufacture, sale, transportation, no session, importation, or distribution of wine for sacramental purposes, or like religious rites, by persons holding a valid permit therefore from the United States Internal Revenue Department. No person to whom such a permit may be issued to manufacture, transport, import, or sell wines for sacramental purposes or like religious rites, shall sell, barter, exchange or furnish any such to any person not a rabbi, minister of the gospel, Priest, or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an additional application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller.

Section 5. It shall be unlawful for any one who is not a physician holding a permit from the United States Internal Revenue Department to prescribe liquor, to issue any prescription for liquor; and, no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought; or, if such examination is found impracticable, then, upon the best information obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once. Any pharmacist filling a prescription shall at the time indorse upon it over his own signature the word "cancelled", together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided.

Section 6. It shall be unlawful for any person to manufacture, purchase for sale, prescribe, sell or transport any liquor, within the City of Lodi, without making at the time a permanent record thereof showing in detail the amount and kind of liquor manufactured,

purchased, sold or transported, together with the names and addresses of the persons to whom sold, in case of sale, for whom proscribed, amount and purpose, in case of prescription and, the consignor and consignee in case of transportation, and the time and place of such manufacture, prescription, sale, or transportation.

Section 7. All manufacturers and wholesale or retail druggists of the City of Lodi, holding United States Internal Revenue permits shall keep as a part of the records required of them, a copy of all United States permits to purchase on which a sale of any liquor is made, and no manufacturer or wholesale druggist shall sell or otherwise dispose of any liquor except at wholesale and only to persons having United States permits in such quantities.

Section 8. All persons within the City of Lodi manufacturing liquor for sale under a United States Internal Revenue permit shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorizing the manufacture thereof, and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon; and all persons selling at wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the person to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale was authorized.

Section 9. It shall be the duty of every carrier within the City of Lodi to make a record at the place of shipment on the receipt of any liquor transported, and he shall deliver liquor only to persons who present to the carrier a verified copy of a United States Internal Revenue permit to purchase, which shall be made a part of the carrier's permanent record at the office from which delivery is made.

Section 10. It shall be unlawful for **any** person to use or induce any carrier or any agsnt or employee thereof, to carry or ship any package or receptacle containing liquor without notifying the carrier of the true nature and character of the shipment. No carrier withir the City of Lodi shall transport nor shall any person receive liquor from a carrier unless there appears on the outside of the package containing such liquor, the following information:

Name and address of the consignor or seller; name and address of the consignee; kind and quantity of liquor contained therein; number of the permit to purchase or ship the same; and, the name and address of the person using the permit.

Section 11. It shall be unlawful for any consignee to accept or receive any package containing any liquor cpon which appears a statement known to him to be false or for any carrier or other person to consign, ship, transport or deliver any such package, knowing such statement to be false.

Section 12. It shall be unlawful to give any carrier or any officer, agent, or person acting or assuming to act for such carrier, an order requiring the delivery to any person of any liquor or package containing liquor consigned to, or purporting or claimed to be consigned to a person, when the purpose of the order is to enable any person not an actual bona fide consignee to obtain such liquor.

Section 13. It shall be unlawful for any person to advertise in said City, any intoxicating liquor by means of any sign or billboard, or by circular, poster, price list, newspaper, periodical, or otherwise, or to advertise the manufacture, 8-18, keeping for sale, or furnishing of such liquors, or the person from whom, or the place where, or the price at which, or the method by which any such liquors may be obtained; provided, that **manufacturers** and **wholesale druggists**, holding valid permits under this Ordinance, may send price lists to those to whom they may legally sell such liquors, and this section shall not **apply** to foreign newspapers mailed into the United States.

Section 14. It shall be unlawful to advertise, manufacture, sell, or possess for sale any utensil, contrivance, machine, preparation, compound, tablet, substance, formula, direction or recipe advertised, designed, or intended for use in the unlawful manufacture of intoxicating liquor.

Section 15. It shall be unlawful to permit any sign of billboard painted, erected or otherwise constructed, containing any advertisement, rendered unlawful by Sections 13 and 14 of this Ordinance, to remain upon one's premises, or to circulate or distribute any circulars, price list or other advertisement rendered unlawful by this section, and it shall be the duty of every police officer of the City of Lodi to remove and destroy any such advertisement when it comes to his notice.

Section 16. It shall be unlawful for any person to solicit or receive, or knowingly permit his employee to solicit or receive, from any person, any order for liquor, or give any information of how liquor may be obtained in violation of this Ordinance.

Section 17. It shall be unlawful to have, possess, transport or manufacture any liquor, or any utensil, contrivance, machine, preparation, compound, tablet, substance, formula, direction or recipe designed for the manufacture of liquor intended for use in violating this Ordinance, or which has been so used; and no property rights shall exist in any such liquor or the aforementioned property. A search warrant may issue as provided in Title XI. of public law numbered 24 of the Sixty-fifth Congress, approved June 15, 1937, and such liquor, the containers thereof, and such property as hereinbefore referred to, so seized shall be subject to such disposition as the court may make thereof. No search warrant shall issue to search any private dwelling occupied as such unless it is being used for the unlawful sale, or manufacture of intoxicating liquor, or unless it is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boarding house. The term "pri-

vate dwelling' shall be construed to include the room or rooms used and occupied not transiently but solely as a residence in an apartment house, hotel, or boarding house. The property seized on any such warrant shall not be taken from the officer seizing the same on any writ of replevin or other like process.

The City Recorder of the City of Lodi and my Justice of the Peace therein, shall have power to issue search warrants as provided in this section.

Section 18. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$300.00 or by imprisonment in the County jail of San Joaquin County, for a period not exceeding three months, or by both such fine and imprisonment.

Section 19. No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpoena of any court in any suit or proceeding based upon or growing out of any alleged violation of this Ordinance, but no natural person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 20. In any affidavit, information, indictment, or complaint for the violation of this Ordinance, separate offenses may be united in separate counts and the defendant may be tried on all at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, indictment, or complaint, to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlaw-

ful, but this provision shall not be construed to preclude the trial court from directing the furnishing by the defendant of a bill of particulars when It deems it proper to do so.

Section 21. The possession of liquors by any person not legally permitted under this ^{Ordinance} ~~code~~ to possess liquor shall be prima facie evidence that such liquor is kept for the purpose of being sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this ^{Ordinance} ~~code~~. But it shall not be unlawful to possess liquors in one's private dwelling while the same is occupied and used by him as his dwelling only; and, such liquor need not be reported, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling and of his bona fide guests when entertained by him therein; and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed and used.

Section 22. All records and reports kept or filed under the provisions of this Ordinance shall be subject to inspection at any reasonable hour by city, district, township, or county officials, or any of their agents or by any public prosecutor or by any person designated by him, or by my peace officer in the County where the record is kept, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the originals thereof, and verified copies of such records shall be furnished to such city, district, township, or county official, when called for.

Section 23. It shall be the duty of all police officers of the City of Lodi, and their deputies, and all other officials charged with the enforcement of law, to enforce the provisions of this Ordinance.

Section 24. Nothing in this Ordinance shall be construed to limit the sale or manufacture of industrial alcohol by a person holding a valid permit therefor from the United States Internal Revenue Department, and when such industrial alcohol is manufactured and sold

in accordance with the laws of the United States, and the rules and regulations of the United States Commissioner of Internal Revenue.

Section 25. All ordinances or parts of ordinances that are inconsistent with this Ordinance are hereby repealed.

Section 26. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Board of Trustees of the City of Lodi, hereby declares that this Ordinance shall be deemed to be an exercise of the power granted by the 18th Amendment to the Constitution of the United States, and of the police power of the City of Lodi, for the protection of the public health, peace, safety and morals of the people of said City of Lodi; and, all of its provisions shall be liberally construed for the accomplishment of these purposes; and the Board of Trustees would have passed this Ordinance and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of such sections, sub-sections, sentences, clauses or phrases might be declared invalid or unconstitutional.

~~Section 27. This Ordinance is urgently required for the immediate preservation of the public health, peace and safety of the people of the City of Lodi, by reason of the fact that intoxicating liquor is being dispensed, sold and given away in the City of Lodi, and there is no adequate means of preventing the same; the public health of the citizens is in peril; the public peace and safety is endangered and cannot be protected; and this is an emergency Ordinance, and shall be in full force and effect immediately upon its final passage, approval and publication.~~

Section 28. This ordinance shall be published once in The Lodi Sentinel, a newspaper of general circulation, ^{and shall} ~~and shall become~~ ^{take effect} ~~effective immediately upon its final passage, approval and publication~~

I hereby approve and sign the foregoing ordinance, this
21st day of March A. D. 1921.

President of the Board of Trustees of
the City of Lodi.

I, J. F. Blakey, City Clerk of the City of Lodi,
do hereby certify that the foregoing ordinance No. 118, was read
and introduced for passage at a regular meeting of the Board of
Trustees of the City of Lodi, on February, 21st, 1921, and was
thereafter, on the 21st day of March, A. D. 1921, duly
passed and adopted by the following vote.

Ayes: Trustees, Cross, Hale, Hickok
and Montgomery

Noes: Trustees: Reals

Absent: None

And that said ordinance was thereupon approved and signed
by the President of the Board of Trustees.

J. F. Blakey
City Clerk of the City of Lodi.

